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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/801,275	03/16/2004	Roger Wilcox	9402-20003	2968
27331	7590	04/05/2006	EXAMINER	
BENASUTTI, P.A. 17294 BERMUDA VILLAGE DRIVE BOCA RATON, FL 33487			VASUDEVA, AJAY	
			ART UNIT	PAPER NUMBER
			3617	
DATE MAILED: 04/05/2006				

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 10/801,275	Applicant(s) WILCOX ET AL.	
	Examiner Ajay Vasudeva	Art Unit 3617 -	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 17 January 2006.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 2 and 3 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 2 and 3 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Claim Objections

1. Claims 2 and 3 are objected to because of the following informalities:
 - In claim 2 (line 1), before “outrigger holder apparatus”, change “A” to – An --.
 - In claim 3 (line 1), change “The release and turning mechanism of Claim 1” to – An outrigger holder apparatus of Claim 2, wherein the release and turning mechanism --.

Note: Currently, Claim 3 improperly depends from the canceled claim 1.

Appropriate correction is requested.

Claim Rejections - 35 USC § 112

2. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.
3. Claims 2 and 3 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.
 - In claim 3 (line 4), use of the limitation “the structural part of the boat” makes the claims indefinite because it lacks proper antecedent basis in the claim.

Claim Rejections - 35 USC § 102

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claims 2 and 3 are rejected under 35 U.S.C. 102(b) as being anticipated by Jordan, III et al. (US 5,592,893 A).

Jordan, III et al. shows an apparatus (fig. 1) having a mounting means [12, 36] comprising indexing means [36] for adjusting the position of an outrigger holder [14] to a plurality of fixed position in a horizontal plane.

The limitation “bearing means” has been broadly interpreted as any arrangement that provides support to a weight. In the present case, the bracket [24] supports the weight of the holder when the holder is lifted and turned to another position, and is therefore considered to be a bearing means.

A release and turning mechanism [30, 31] comprising a lock [31] engages the outrigger holder and the mounting means, wherein the lock is movable to disengage the lock from the mounting means.

Applicant may note that the limitations such as “mounting means for the outrigger holder” (emphasis added) are merely intended use limitations, and are not accorded patentable weight because they are not positive recitations.

Regarding the limitation “said adjustment being made from underneath the structural part of the boat, upon which the holder is mounted”, it is first noted that the claim fails to positively recite attachment to any specific part of a boat, in contrast

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to the canceled claim 1, which recited "An outrigger holder apparatus mounted on the T-top of a boat, the improvement comprising: a housing means fixedly mounted on said T-top" (emphasis added). As such, the outrigger attachment to a boat structure is merely considered to be an intended use. Further, if the apparatus were to be attached to a boat structure disposed at a considerable height, a user would have had to reach upwardly to grab the turning mechanism. In such case, any adjustment would have been considered as being made from underneath the structural part of the boat, as required by the claim.

Response to Arguments

3. Applicant's arguments with respect to claims 2 and 3 have been considered but are moot in view of the new ground(s) of rejection.

Conclusion

4. The prior art made of record in the attached PTO Form-892 and not relied upon is considered pertinent to applicant's disclosure.

The cited prior art references broadly read on at least claim 2.

5. Although the rejected claim 2 is considerably broader in scope than the original claim 1, this action has not been made final as a courtesy to the applicant.


6. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Ajay Vasudeva whose telephone number is (571) 272-6689. The examiner can normally be reached on Monday-Friday 12:00 -- 5:30 pm.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, S. Joe Morano can be reached on (571) 272-6684. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Ajay Vasudeva
Examiner
Art Unit 3617


3/30/06
AJAY VASUDEVA
PATENT EXAMINER